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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Ricci Saliba,

10 Plaintiff,

11 v.

12 KS Statebank Corporation,

13 Defendant.
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No. CV-20-00503-PHX-JAT

ORDER

15 Pending before the Court is the Renewed Joint Motion to Approve Cy Pres
16 Recipient. (Doc. 68).

17 **I. BACKGROUND**

18 The Court approved a Final Class Action Settlement on October 6, 2021. (Doc. 63).
19 The settlement agreement, in part, provided the following:

20 If any amounts remain 180 days from issuance of this second distribution, the
21 Parties shall seek Court approval of a cy pres award to a nonprofit charitable
22 organization. The Parties shall jointly select a cy pres recipient prior to moving for
23 the Court's approval.

24 (Doc. 55-1 p. 22-23; Doc. 66-1 p. 22-23). The parties followed the distribution procedures
25 and \$5,577.38 remains. (Doc. 66 p. 2). The parties filed the first joint motion and proposed
26 People Acting Now Discover Answers ("PANDA") as the *cy pres* recipient. (Doc. 66 p.
27 2). The Court denied that motion without prejudice because the Court could not find the
28 requisite nexus between PANDA and the lawsuit. (Doc. 67). The parties then filed the
pending Renewed Joint Motion, proposing the National Consumer Law Center ("NCLC")
as the *cy pres* recipient. (Doc. 68 p. 1). The NCLC's mission is "to stop exploitative

practices, help financially stressed families build and retain wealth, and advance economic fairness.” *Mission*, NCLC, <https://www.nclc.org/about-us/mission/> [<https://perma.cc/P7FB-ZJ7C>]. The NCLC specifically “works to stop unwanted or fraudulent robocalls and texts, to protect consumers, and to make it harder for scammers to disappear with a consumer’s money.” *Key Issues*, NCLC, <https://www.nclc.org/our-work/> [<https://perma.cc/JJT4-6LTL>].

II. ANALYSIS

“*Cy pres* distributions must account for the nature of the plaintiffs’ lawsuit, the objectives of the underlying statutes, and the interests of the silent class members, including their geographic diversity.” *Nachshin v. AOL, LLC*, 663 F.3d 1034, 1036 (9th Cir. 2011) (citing *Six (6) Mexican Workers v. Ariz. Citrus Growers*, 904 F.2d 1301, 1307-08 (9th Cir. 1990)). There must be “a driving nexus between the plaintiff class and the *cy pres* beneficiaries.” *Id.* at 1038.

Here, Plaintiffs’ lawsuit related to unsolicited telemarketing in the form of automated text messages directed towards prospective customers. (Doc. 10 p. 2). The underlying statute was the Telephone Consumer Protection Act. (*Id.*). Plaintiffs alleged a national class. (*Id.*). The NCLC is a national organization that does specific work to combat such unsolicited telemarketing. The Renewed Joint Motion cites numerous Ninth Circuit cases in which courts approved the NCLC as a *cy pres* recipient where the underlying statute was the Telephone Consumer Protection Act. (Doc. 68 p. 3). For the foregoing reasons, the Court approves the selection of the NCLC as the *cy pres* recipient.

III. CONCLUSION

Accordingly,

IT IS ORDERED that the Renewed Joint Motion to Approve Cy Pres Recipient (Doc. 68) is granted.

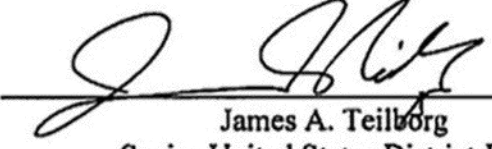
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1 **IT IS FURTHER ORDERED** that the Settlement Administrator shall distribute all
2 remaining funds in the Settlement Account to NCLC as the designated *cy pres* beneficiary.

3 Dated this 4th day of October, 2024.

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8 James A. Teilborg
9 Senior United States District Judge
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